United Nations A/58/267

General Assembly

Distr.: General
11 August 2003

Original: English

**Fifty-eighth session**
Item 26 of the provisional agenda*
**The situation in Central America: progress in fashioning a region of peace, freedom, democracy and development**

# United Nations Verification Mission in Guatemala

## Report of the Secretary-General**

*Summary*

The present report is the eighth on the verification of the peace agreements reached between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, submitted pursuant to the mandate given to the United Nations Verification Mission in Guatemala by the General Assembly in its resolution 51/198 B. This mandate has been repeatedly extended, and is due to expire on 31 December 2003. The report covers the period from 1 May 2002 to 15 July 2003; this was a difficult period for Guatemala, and implementation of the peace accords has lagged. While there have been some advances, the sustainability of the process can be ensured only if Guatemalans assume full ownership and responsibility to carry it forward.

* A/58/150.

** The submission of the present report was delayed in order to incorporate the results of consultations within the Organization.

03-46589 (E) 120903

# I. Introduction

1. The present report is the eighth on compliance with the peace accords signed by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG), submitted pursuant to the mandate entrusted to the United Nations Verification Mission in Guatemala (MINUGUA) by the General Assembly in its resolution 51/198 B of 27 March 1997. It covers developments from 1 May 2002 to 15 July 2003.

2. MINUGUA, which will be completing its ninth year in 2003, is entering its final phase of operations. The Mission's mandate was last extended until 31 December 2003, by resolution 57/161 of 16 December 2002. In that resolution the General Assembly took note of the request of the Government of Guatemala for a final extension through the end of 2004, considering that elections will be held in 2003 and a new Administration is scheduled to take office in January 2004. The resolution noted concerns in Guatemalan civil society and in the international community that voids would be created should MINUGUA depart Guatemala before a new Government had taken office and demonstrated its commitment to the peace process.

3. On 18 April 2002, I informed the General Assembly that I had designated Tom Koenigs of Germany as my Special Representative in Guatemala and Head of MINUGUA, effective 1 August 2002. Mr. Koenigs replaced Gerd Merrem.

4. During the period covered by the present report, MINUGUA continued to verify compliance with the peace agreements while intensifying a transition programme designed to strengthen the capacity of national actors to carry the peace agenda forward following the conclusion of the Mission. Among MINUGUA's transition partners in Guatemala, special priority has been placed on the Office of the Human Rights Ombudsman. Under a memorandum of understanding signed in 2002, the Mission has been providing training in the area of human rights verification, thus sharing the experience gained in this field since the installation of MINUGUA.

5. The Mission's transition strategy also attaches great importance to ensuring follow-on to the peace process by the international community, particularly through the specialized agencies, funds and programmes of the United Nations system. MINUGUA has intensified its coordination with the Office of the United Nations High Commissioner for Human Rights, in the expectation that it will expand its presence in Guatemala as MINUGUA departs. Also of importance is the United Nations Development Programme (UNDP) technical assistance for peace priorities and reporting by the United Nations country team on compliance with socio-economic commitments envisaged in the peace accords. The Mission has also been supporting efforts to strengthen the role of government/civil society commissions established under the peace agreements to ensure follow-through and participation in the implementation process.

6. Progress in implementation fell short of expectations and was insufficient to inject momentum into a peace process that had stagnated in previous years. Advances were verified in certain areas, such as the passage of legislation against discrimination, the redeployment of military units and the development of a national reparations programme for the victims of human rights violations committed during the armed conflict. But there was also inaction on many important issues. Moreover,

progress was overshadowed by such negative trends as the worsening public security situation, persistent corruption, setbacks in the fight against impunity and an ongoing climate of intimidation against justice officials and human rights defenders.

7. Consolidating the vision of the peace accords will require greater political will, the involvement of all sectors of society and the continued engagement of the international community. The critical evaluation of progress during this past period should not be a cause for pessimism. Nor should we lose sight of the broader gains of the Guatemalan peace process. With elections approaching in November 2003 and a new Administration to take office next year, the challenge ahead will be to consolidate gains to date and to deepen crucial processes of reform.

## Political context

8. The political polarization noted in previous reports persisted, further impeding the advance of the peace process. Cooperation between the Government of President Alfonso Portillo, political opposition parties, the private sector and groups in civil society became increasingly difficult as the 2003 elections approached and allegations of official corruption continued to surface. Congress was unable to obtain the two-thirds majority required to approve an electoral and political parties law that would have greatly expanded opportunities for participation, particularly by members of the Maya, Xinca and Garifuna indigenous groups. The private sector systematically opposed Government efforts to raise revenues, with its Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations successfully filing numerous constitutional challenges to tax increases.

9. Tensions rose around the country in June 2002 as former civil patrollers blockaded the Tikal archaeological park and an airport and oil installations nearby to demand compensation for their services during the armed conflict. The Government's decision to pay these groups prompted sharp criticism, in the light of their involvement in past human rights violations and the absence at that time of a reparations programme for victims of abuses committed during the conflict. Demonstrations multiplied around the country, including one protest in which a former patroller was shot and killed, apparently by police. In May 2003, ex-patrollers angry over delays in the delivery of the promised benefit payments burned down municipal buildings and a market in the town of Chicacao, department of Suchitepéquez.

10. Public security deteriorated further, prompting the Government to resort again to military patrols in the fight against common crime. The sense of insecurity increased following a spate of killings in late 2002 and early 2003. The victims included Antonio Pop Caal, a prominent Mayan intellectual; Diego Velasco Brito, a Mayan former congressman; and José Fernando Lobo Dubon, a former president of Congress. A judge working on high-profile narcotics cases survived an assassination attempt in Guatemala City in January 2003, in which her vehicle was sprayed with gunfire. This occurred only days after the fatal shooting of an administrative court judge. Three violent prison uprisings claimed dozens of lives.

11. Threats and attacks against human rights defenders, justice officials, trade unionists and journalists continued.[1] Some setbacks in high-profile human rights cases showed the persistent fragility of the justice system. The climate of intimidation against activists also prompted visits to Guatemala by Hina Jilani, the Special Representative of the Secretary-General on human rights defenders, and by members of the Inter-American Human Rights Commission. Concern about these problems prompted an agreement in March 2003, between the Government and the Human Rights Ombudsman, with the support of non-governmental human rights organizations, to establish an internationally backed investigation into the existence of clandestine groups with the participation of the United Nations and the Organization of American States. I sent a technical exploratory mission of independent experts and United Nations officials to Guatemala to assess the viability of such a commission.

12. The visit in September 2002 of Rodolfo Stavenhagen, United Nations Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people, drew attention to the deep-rooted problem of racial discrimination and to the need for progress in implementing the Agreement on the Identity and Rights of Indigenous Peoples.

13. New accusations surfaced regarding corruption and the influence of drug trafficking and organized crime in governmental spheres. In January 2003, the United States Government decertified Guatemala as a cooperative ally in the fight against illegal drugs. The Government dissolved its anti-narcotics police after members were implicated in corruption and serious human rights violations. The Attorney General announced he was opening investigations of five former military officers suspected of involvement in illicit activities. As the period drew to a close, arrests took place and investigations continued into allegations that corrupt officials had embezzled large sums of money from the nation's social security fund.

14. The sixth anniversary of the signing of the Agreement on a Firm and Lasting Peace was celebrated on 29 December 2002, in a ceremony held in the presidential palace in the presence of clergy, civil society representatives and members of the international community. The President announced that he had completed the demobilization of one fourth of the members of the Presidential General Staff, the presidential guard whose disbandment is long overdue under the peace agreements. The President subsequently sent legislation to Congress, which, if passed, would require final demobilization by November 2003.

15. A national teachers' strike paralysed public schools for two months. Strikers took over ports, customs houses and airports before the strike was peacefully resolved in March 2003 after talks facilitated by the Archbishop of Guatemala City. Peasant organizations undertook massive protests to demand land and a Government response to the crisis affecting the coffee market, with its resulting negative impact on the livelihood of many rural poor.

16. The campaign for the November national elections began officially in May 2003. The first round of voting was set for 9 November and, if necessary, a second presidential round for 28 December. At stake are the presidency, all of the 158 seats in Congress and all 331 of the nation's municipalities. The Supreme Electoral

[1] In June 2003, armed men broke into the home of José Rubén Zamora, president of *El Periódico* newspaper, and bound and threatened him along with members of his family.

Tribunal launched a voter registration drive to counter historically low participation, particularly among indigenous people. The Organization of American States and the European Union announced that they would be sending election observers. The electoral campaign has been marked by tensions surrounding the presidential aspirations of Efraín Ríos Montt, President of the Congress and former de facto ruler, who had been barred from running on constitutional grounds on two previous occasions. The Supreme Electoral Tribunal and the Supreme Court upheld those earlier decisions, but were overruled on 14 July by the Constitutional Court, which approved Ríos Montt's candidacy, prompting an outcry by human rights leaders and constitutional activists. Serious concerns arise, as following a decision of the Supreme Court to uphold an appeal of the Constitutional Court's ruling, riots and violence broke out in the capital. In what seemed to be a highly organized protest, hundred of Ríos Montt's supporters transported in trucks converged on the Electoral Council.

17. The Government, donors and representatives of civil society and political parties participated in a Consultative Group meeting in Guatemala City on 13 and 14 May 2003 that was to evaluate progress in implementing the peace agreements since the meeting in Washington, D.C., in 2002. The reports issued by MINUGUA and others in the international community noted some advances, but regretted that the implementation process had fallen short of Government promises. Continued attacks on human rights monitors, the failure to pass a land registry law and slow progress in improving the situation of indigenous peoples were among the major concerns of the donor community. All participants agreed that the peace agreements should remain Guatemala's essential road map for development. The President announced that he would introduce legislation to strengthen the Commission to Follow up the Implementation of the Peace Agreements and the Peace Secretariat of the presidency so as to ensure the continuation of the peace accords under the next administration. The largest donors expressed continued strong support provided Guatemalans remained committed to moving ahead in the peace process.

18. Following the Consultative Group meeting, the Government presented measures intended to advance the peace agenda during the remaining months of the Administration. They include full demobilization of the Presidential General Staff, passage of a 2004 budget reflecting peace priorities, reductions in the army, the initiation of the national reparations programme and the investigation into clandestine groups, as well as the passage of pending legislation, including the land registry law and laws on access to information, on classification and declassification, and on elections and political parties.

19. The Under-Secretary-General for Political Affairs, Kieran Prendergast, visited Guatemala from 4 to 8 July 2003 to review MINUGUA's transition plans and meet with President Portillo and high Government officials, electoral authorities and leaders of civil society. The Under-Secretary-General underlined the need to intensify national efforts to implement the peace agreements and to hold credible and transparent elections. He also emphasized rule of law and broader political participation as keys to Guatemala's future.

20. On 11 July 2003, under the auspices of the Organization of American States, representatives of the main political parties signed a declaration expressing support for the peace agreements as "state accords" that should be incorporated into their government plans and for the conduct of peaceful and lawful elections.

# II. Implementation of the peace accords, 2002-2003

21. MINUGUA verification activities focused on human rights, the rights and identity of indigenous peoples, demilitarization and the strengthening of civilian power, and socio-economic aspects and the agrarian situation. In evaluating progress, the Mission took account of the implementation and verification timetable established by the Commission to Follow up the Implementation of the Peace Agreements, which extends through 2004. It also considered the commitments made by the Government at the Consultative Group meeting of February 2002 to guarantee sufficient budgetary appropriations for implementation and increase tax revenues to finance peace expenses; to fight impunity, improve citizen security and guarantee human rights; to increase transparency; and to promote dialogue and national unity.

## A. Human rights and justice; the fight against impunity

22. With the end of the armed conflict, Guatemala's human rights situation improved dramatically, as reflected in reduced levels of such violations as executions, forced disappearances and torture. Political killings were greatly reduced and freedom of the media increased. Progress was much slower in combating impunity and consolidating the rule of law, both fundamental commitments of the Comprehensive Agreement on Human Rights.

23. Public security deteriorated, impunity persisted, and the climate of intimidation against human rights defenders, social activists and journalists noted in my previous report continued. Budgets for key rule-of-law institutions remained insufficient, and judicial reform efforts proceeded slowly. An important step forward was the agreement between the Government and civil society organizations on the design of a national reparations programme for the victims of human rights violations committed during the armed conflict.

24. Human rights activists, judges, prosecutors, attorneys, witnesses and forensic anthropologists have also been subject to threats, harassment and violence. From late 2002 to mid-2003, there were several serious incidents, including attacks against three judges and two public prosecutors (one of whom was the special prosecutor for violations against human rights defenders), and the murder of a key witness in the case of the killing of Bishop Juan Gerardi, for which military officers were convicted. Break-ins occurred at offices of the Human Rights Ombudsman in Izábal and at the Guatemala City home of a leading opposition politician and a well-known human rights activist. In June 2003, unknown assailants shot and killed the regional delegate of the Human Rights Ombudsman for Chimaltenango. Also of grave concern was a series of murders of youths participating in prevention and rehabilitation programmes for juvenile delinquents; in Guatemala City alone, the non-governmental Centre for Human Rights Legal Action registered 37 such deaths between November 2002 and January 2003.

25. The common element in each of the cases described above has been the lack of results in official investigations. The response of justice sector authorities has been limited and inadequate. A presidential commission and a special prosecutor's office established in mid-2002 to investigate threats against human rights activists did not

receive the financial support or the necessary collaboration from other institutions to achieve results.

26. The cases described above drew heightened attention to the problem of clandestine groups believed responsible for many of these incidents. Last March, the Government and the Human Rights Ombudsman, with the support of non-governmental human rights organizations, agreed to create a Commission for the Investigation of Illegal Groups and Clandestine Security Apparatuses, and approached the United Nations to support this initiative. Such an investigation, in tandem with greater efforts to strengthen the permanent institutions of the criminal justice system, could make an important contribution to identifying and combating such groups.

27. The decision of an appeals court to overturn the conviction of a former army colonel in the 1990 killing of anthropologist Myrna Mack was a disappointing setback in the fight against impunity. The conviction had been considered a milestone in breaking a long pattern of military impunity in Guatemala. That progress is possible in punishing State agents for human rights violations was demonstrated in the conviction of 16 agents from the now-dissolved Department of Anti-Narcotics Operations of the National Civilian Police. The men were convicted for their role in the extrajudicial killings committed last year in Chocón, a community in Izábal department.

28. Lynchings continued without eliciting a forceful State response. Several isolated efforts at prevention were made by the judicial branch and the National Commission for the Strengthening of the Justice System (which established a national round table against lynching).

29. Although some justice sector institutions, including the National Civilian Police, received nominal budgetary increases for 2003, the amounts remained insufficient to undertake much-needed expansion and reform plans. One particularly disturbing example is the Public Defender's Office, which was forced to dramatically curtail its services due to a lack of funds.

30. The proper functioning of the Office of the Human Rights Ombudsman is essential for protecting human rights in Guatemala, and should be a top priority. In that regard, Congress took a positive step by selecting a new Ombudsman endorsed by civil society organizations. Although the Office still faces considerable challenges, reorganization and strengthening under the leadership of Ombudsman Sergio Morales are encouraging signs. The reform process has been hindered, unfortunately, by meagre budget allocations, a situation that has forced it to rely on international cooperation to finance its restructuring.

31. Prison reform efforts made little progress, notwithstanding three major riots that underscored the lawlessness, overcrowding and corruption that plague the system. Congress has failed to act on penitentiary reform legislation, and authorities have so far eschewed a thorough examination of the budgetary and administrative roots of these problems. The recommendations of a Consultative Commission on the penitentiary system have yet to be implemented.

32. The safety of judges is vital for judicial independence; measures to protect them, however, have had limited impact. Supreme Court authorities took some steps forward by creating a special security unit to protect judges and by proposing a special life insurance programme.

33. Expanding access to the justice system, primarily in rural areas, is of paramount importance. Although three new justice administration centres were opened in remote and predominantly indigenous areas, their effectiveness was limited by deficiencies in inter-institutional coordination and unclear policies for hiring bilingual staff.

34. Several institutions involved in the training of justice sector professionals have suffered significant budget cuts, including the Judicial Branch Training Unit, the National Civilian Police Academy and the Penitentiary Studies School. The Education and Training Unit of the Penal Public Defence Office was virtually eliminated.

35. In July 2003, the Government inaugurated a National Reparations Commission to create and administer a national reparations programme for victims of the 36-year-long armed conflict, a significant advance in compliance with the peace agreements and the recommendations of the Historical Clarification Commission. This was achieved through negotiations between the Government and members of a coalition of victims' organizations, with the good offices of MINUGUA. The Commission should ensure the swift creation of the reparations programme, and the Government should allocate sufficient funds to finance payments. It is important that Congress reverse its earlier refusal to support national reparations and ensure the funding base and institutional stability of payments by enacting the programme into law.

36. The Government continued to ratify international human rights instruments such as the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. In the Inter-American Court of Human Rights, the Government demonstrated willingness to accept State responsibility for human rights violations and to negotiate settlements with victims or their families, including in the case of Myrna Mack. An exception to this positive trend in the international arena was the continued inaction in Congress on the Rome Statute of the International Criminal Court, even though the treaty had the support of the presidency and human rights organizations, and was the subject of a favourable ruling by the Constitutional Court.

## B. Identity and rights of indigenous peoples

37. Advances in the implementation of the Agreement on the Identity and Rights of Indigenous Peoples have been limited over the years, despite its centrality in a country in which approximately half the population is indigenous. Guatemala's indigenous people continue to suffer widespread ethnic, racial and cultural discrimination, while lacking access to basic social services and experiencing disproportionate levels of poverty, including extreme poverty. The ethnic diversity of the nation thus remains largely underrecognized as one of its defining characteristics and greatest assets.

38. While many aspects of that Agreement remain pending, several positive steps were taken. The Government eased access to national cultural monuments for the practice of Mayan spirituality. In May 2003, just prior to the Consultative Group meeting, Congress passed a new law that facilitates the use of indigenous languages in official spheres. Legislation was also adopted that penalizes discrimination in its many manifestations, including on the basis of gender.

39. Much of the legislation stipulated in the Agreement on the Identity and Rights of Indigenous Peoples remained pending, including laws to recognize indigenous forms of land ownership, to facilitate indigenous access to radio frequencies and to consolidate bilingual education. Guatemala has still not recognized the competence of the United Nations Committee on the Elimination of Racial Discrimination to receive individual complaints. Particularly disappointing for indigenous organizations was the lack of interest by Congress in adopting legislation to codify the crime of sexual harassment and to impose higher penalties when the victim is indigenous. The Office for the Defence of Indigenous Women's Rights, created under the peace agreements, still lacks a sufficient budget to effectively expand its coverage into the interior of the country.

40. There were few advances in promoting access to the justice system by indigenous peoples in their own languages, whether through a system of interpreters or the recruitment of judges, prosecutors and other officials who speak indigenous languages. However, decisions taken in three separate court cases during the period evidenced growing awareness of obligations to respect the collective rights of indigenous peoples.

41. Educational reforms to reflect the linguistic and cultural diversity of the country continued to progress slowly. Such measures as pilot programmes for bilingual education, the development of cross-cultural curricula and an increase in bilingual teacher training institutes are positive but should be implemented on a much broader scale.

42. In March 2003, President Portillo inaugurated a presidential commission for the elimination of discrimination and racism against indigenous peoples. Its effectiveness will ultimately depend on its ability to generate recommendations and on the Government's willingness to implement them.

## C. Demilitarization and the strengthening of civilian power

43. Advances in consolidating civilian institutions and reshaping the military within a democratic institutional framework have continued to be slow, despite progress towards dissolving the Presidential General Staff and redeploying the military according to national defence criteria rather than internal security considerations.

44. Results were mixed on the legislative agenda. Despite substantial discussions on the matter between the Government and civil society organizations, laws on access to information and the classification of State information, controls over firearms and munitions and the regulation of private security firms had yet to be enacted. Congress, however, passed a law that established a civilian alternative to mandatory military service, as provided for in the peace agreements.

### Public security

45. The National Civilian Police corps was significantly weakened during the period. The Government responded to the growing crime problem by involving the army in public security tasks, rather than strengthening the National Civilian Police. This tendency stunts the development of the latter and delays the withdrawal of the armed forces from civilian tasks. The Mission has verified many cases in which

soldiers patrol without any police presence, and where planning for operations is carried out by the military zone commanders.

46. Prospects for more coherent future policies on security and defence improved as the Government and civil society organizations cooperated on the establishment of the Advisory Council on Security envisaged in the peace agreements. The Council was created by presidential decree in February 2003, and has engaged civil society representatives in discussions to determine its statute and work plan. Composed of prominent citizens, the Council should contribute to the formulation of public security and defence policy.

47. The Interior Ministry and civil society representatives, with technical assistance from MINUGUA, drafted new regulations on police discipline that are still awaiting approval by the executive branch. These regulations would help to remove abusive or corrupt officials. The creation of offices within the National Civilian Police dealing with human rights, gender, community policing and multicultural issues should enhance police practices on these issues.

**Armed forces**

48. Military spending in 2002 was below that of the previous two years, but once again went beyond the goal of 0.66 per cent of gross domestic product, as established in the peace accords. This was the sixth consecutive year in which spending exceeded the targets of the accords. The final budget of the National Defence Ministry in 2002 was 1.238 billion quetzales, 24 per cent above the sum approved by the Congress. Transparency on the use of funds was also lacking, as military authorities argued that the need for military secrecy prevented them from answering questions from Congress about the budget.

49. Following several years of stagnation on this commitment, the army made substantial progress in redeploying its units in conformity with external defence functions. The National Defence Ministry deactivated three military zones and 16 detachments, while maintaining its controversial detachment in the town of Rabinal, Baja Verapaz. This installation serves no tactical purpose and continues to cause friction with the many victims of human rights violations living in the community.

50. Representatives of the National Defence Ministry and civil society held discussions on the drafting of a national defense white book within the framework of thematic dialogue round tables organized by UNDP and the Organization of American States. Consensus reached in these discussions should constitute the basis for a new defence policy and a new military doctrine.

51. The steps taken towards the dissolution of the Presidential General Staff suggested that this process had become irreversible, although some concern remained about its completion before the end of the current Administration. The Government reported having demobilized 186 members of the corps in late 2002 and 107 more in May 2003, leaving 449 staff. At the conclusion of the period, Congress was considering legislation abolishing the Presidential General Staff on 30 November 2003, while legalizing its successor, the Administrative and Security Affairs Secretariat (SAAS), the civilian institution that has been gradually taking over the functions of the Presidential General Staff under the peace accords. Since its founding, SAAS has, in a professional fashion, provided security for the Vice-President and his family and for former Presidents.

### Information and intelligence

52. Tangible progress in establishing a civilian State intelligence system was still lacking. Forward movement in this key area is one of the objectives of the High-level Commission formed in late 2002 by the Interior Ministry and representatives of civil society. The Commission drafted legislation to create a Department of Civilian Intelligence and Information Analysis and drafted a firearms law that would transfer the Arms and Munitions Control Department from the National Defence Ministry to the Interior Ministry.

53. The Strategic Analysis Secretariat of the Presidency, a civilian institution created under the accords, was weakened by cutbacks in its budget and leadership turnover.

## D. Socio-economic and agrarian aspects, and gender issues

54. Under the Agreement on Social and Economic Aspects and the Agrarian Situation, the Government should promote rural development and overcome the vast social inequalities in Guatemala, where more than half of the population lives in poverty, and at least 15 per cent in extreme poverty. Progress in this area was hindered by inadequate resources for relevant institutions and lack of progress on key legislation.

55. The continued depression of coffee prices exacerbated the already precarious situation of the Guatemalan peasantry, further complicating the prospects for reducing rural poverty. In early 2003, the Government agreed to a proposal from civil society organizations to fund a "coffee emergency" plan, including crop diversification and the acquisition of new lands for unemployed peasants.

### Land and rural development

56. The absence of a national land registry system continues to be a serious obstacle to rural development and the resolution of land conflicts. Actions taken in this area have been erratic, and donors, who have contributed significant bilateral and multilateral funds for cadastre projects, expressed increasing frustration. President Portillo withdrew land registry bills from the Congress on two separate occasions before finally presenting a third, expanded proposal in April 2003. It is hoped that Congress will act on the legislation, which is crucial for establishing legal security for landholdings. The creation of the Secretariat of Agrarian Affairs was a positive step towards the formulation of coherent and coordinated agrarian policies.

57. Other important legislative items, such as the law on agrarian and environmental jurisdiction, remained pending. Nor had there been progress on laws regarding idle lands and territorial taxes, which are considered important for stimulating the rural land market.

58. The Presidential Office for Legal Assistance and Dispute Settlement in Land Matters, which played an important role in helping to resolve peacefully some of the country's nearly 2,000 registered land disputes, was not assigned funds in the 2003 budget. Stopgap funding provided by the Government in April 2003 forestalled the closure of the institution, but was insufficient to prevent severe staff cuts and the closing of several regional offices.

59. The budget allocated to the Land Trust Fund was again below the amount prescribed in the executive decree that created the fund in 1998 as a key mechanism of the peace agreements. The fund has relied largely on multilateral loans and foreign aid, and has made only modest progress in securing land for needy populations. Still pending are the creation of a guarantee fund to help mobilize private resources for land credit and the recovery of vast tracts of lands, particularly in the Petén and Northern Transversal regions, which had been irregularly adjudicated by previous Administrations.

60. In April 2003 discussions aimed at defining a rural development policy got under way between the Government, peasant and indigenous groups and members of the private sector, in the context of the thematic round tables organized by UNDP and the Organization of American States.

**Fiscal policy and transparency**

61. The peace agreements require adequate budgets for ministries, secretariats and other government institutions tasked with carrying out the provisions of the accords. The 2003 budget law contains improvements over that of the previous year, but allocations remain insufficient, thus imperilling the survival of key institutions, such as the Presidential Office for Legal Assistance and Dispute Settlement in Land Matters and the Public Defender's Office. During the past year, moreover, the Government has continued to distort the priorities of the approved budget through transfers, primarily to the military. The resulting 24 per cent increase in the actual 2003 budget of the National Defence Ministry was outpaced only by the 95 per cent increase for the Presidential General Staff.

62. A major factor behind the budgetary shortages is Guatemala's continuing failure to increase tax revenues to the target of 12 per cent of gross domestic product as established in the peace accords. Although there was notable improvement in tax collection and administration, the tax base increased to only 10.5 per cent of gross domestic product in 2002, and current projections indicate that the amount will not surpass 10.7 per cent for 2003. Responsibility for the low revenues was not the Government's alone, the organized private sector maintained its stiff resistance to tax increases.

63. Despite the designation of a special anti-corruption prosecutor, there were few tangible results in resolving any of the major cases of corruption unveiled in recent years. Some positive steps were taken with the support of the World Bank, including the creation of a Commission on Transparency and Corruption and the approval by Congress of the Integrated Financial Administration Control System, which should now be expanded to cover Congress, municipal governments and social funds.

**Decentralization**

64. A package of laws on Development Councils, the Municipal Code and decentralization have opened up new possibilities for broader social participation in development planning at the local level, particularly by groups who were traditionally excluded, such as women and indigenous people. One disappointment, however, was the lack of consideration given by the national Government to the slates of gubernatorial nominees proposed by the revamped Councils in several regions. The lack of a clear national policy on decentralization and divergent

interpretations of the new laws by different government institutions has also inhibited progress.

**Education**

65. The budget for the Ministry of Education increased by 12 per cent over that of the previous year, but fell short of requirements to significantly expand coverage, implement educational reform and improve physical infrastructure. Guatemala's allowance for education, at 2.5 per cent of gross domestic product in 2002, remained one of the lowest in Latin America.

66. Curriculum reform was extended through the elementary school level, and more training institutes were opened for bilingual teachers. However, several programmes were weakened, including those for scholarships for children and school breakfasts and lunches, mainly due to a lack of organization and funds. The teachers' strike in early 2003 exposed the multiple shortcomings of the educational system, without resulting in proposals for long-term solutions. One outcome was to merge the well-regarded Programme for Educational Self-Management into the new System for the Decentralization of Educational Management, created in March 2003. Important actors such as the Consultative Commission for Educational Reform were not consulted in this decision.

**Health and housing**

67. The Ministry of Health suffered budget cutbacks in 2003. Health services continued to be precarious, especially in the rural and largely indigenous areas. Little emphasis was placed on basic preventive measures, and the lack of potable water remained a chronic problem in many rural communities.

**Gender**

68. Reforms to Development Councils have opened up new ways for women's organizations to participate at the national, regional and departmental level. The Presidential Secretariat for Women was established to ensure that public policies are consistent with gender-focused guidelines, but its budget was insufficient to fully carry out its mandate. A coalition of women's groups and other civil society organizations prepared a draft law that instils a gender perspective into the Labour Code, but this was not acted upon in the Congress.

**Resettlement of uprooted populations and incorporation of ex-combatants**

69. There were no major advances in developing sustainable policies on resettlement of the uprooted, or displaced, population and the definitive integration of the Unidad Revolucionaria Nacional Guatemalteca (URNG). The construction of 5,700 homes for persons uprooted by the conflict was, however, a positive step. Various other commitments to the same groups — on land, productive development, health and education — did not advance.

70. The lack of a rural development policy and the limited access of those living in remote areas to basic services continued to curtail the full and productive reintegration of demobilized URNG members into society. In May 2003, a major European Union-funded project in support of the reincorporation of ex-combatants came to a close. National resources should be assigned to the Trust Fund for

Productive Projects; directed at both the demobilized and the resettled populations, this fund has been awaiting implementation for the past two years.

## III. Observations

71. Guatemala took a courageous and difficult step in signing peace agreements that sought to bring to closure the fighting while undertaking a profound and ambitious transformation of the country. The complex and sweeping nature of the accords makes progress difficult even when sufficient political will and financial resources are available. But the scale of the problems or the time necessary for their resolution should not become a justification for failing to advance more decisively on this path. Great challenges require great efforts, and although the present report documents some important progress and many reasons to remain optimistic, it is also a reminder that more substantial efforts are needed.

72. International support and encouragement will continue to be important, but the process will be sustainable in the long run only to the extent that Guatemalans assume full ownership and responsibility to carry it forward. I am greatly encouraged that Guatemala's main political parties have committed themselves to carrying on with the peace process. I am also encouraged by the involvement of civil society organizations and their enthusiasm in framing future work agendas around implementation of the agreements.

73. During the months that remain under the current Administration, every effort should be made to implement pending commitments in the peace accords. The Presidential General Staff should be completely dissolved. Actions against discrimination should be accelerated. The 2004 budget should reduce military spending and dedicate significantly increased resources to social needs and rule of law institutions such as the National Civilian Police, the Public Ministry, the judiciary and the Office of the Human Rights Ombudsman. The list of priority peace legislation prepared by the Commission to Follow up the Implementation of the Peace Agreements should be adopted in its entirety, including the land registry law, the laws on access to information and the classification and declassification of State information and a framework law on civilian intelligence. It should also be a priority to pass legislation to strengthen the key institutions created by the accords and charged with their implementation and to begin implementation of the national reparations programme for victims of human rights violations. Each of these measures was identified in this year's Consultative Group meeting as a priority near-term agenda item for Guatemala.

74. The success of the peace process in the medium and longer term will require strong State institutions capable of articulating long-term and adequately funded public policies for making progress on the broad thematic agenda of the accords: human rights, the fight against discrimination, public security and national defence policy, rural development, health and education.

75. A long-term commitment is needed to strengthen State institutions of the justice system, including the police, the courts, the Public Prosecutor's Office and prisons, in addition to the Office of the Human Rights Ombudsman. Human rights policies should be formulated in consultation with civil society organizations, which implies the added challenge of breaking the cycles of mistrust that have made

dialogue difficult. These and other concerted steps must be taken to break the wall of impunity that is blocking Guatemala from achieving the full promise of peace.

76. In matters relating to indigenous peoples, strategies for reinvigorating the implementation of the peace accords should include the promotion of public policies developed in consultation with the indigenous peoples to gradually reduce the existing level of discrimination. The many legislative proposals that have been prepared by indigenous peoples should be taken into consideration. The judicial branch should do more to promote access for indigenous peoples to justice in their own languages and greater respect for indigenous law. Changes in the Constitution should also be considered, to bring Guatemala's legal framework into line with the peace accords and international treaties ratified by the country. Renewed progress in implementing the Agreement on the Identity and Rights of Indigenous Peoples would have a positive impact on the entire country, strengthening its democracy and promoting the development of a multi-ethnic, multicultural, multilingual State.

77. Bold steps need to be taken in the area of demilitarization and the strengthening of civilian power. The transformation of the armed forces requires their full subordination to civilian authority and a structure, force level, doctrine and deployment consistent with a democratic society in peacetime. Pending legislation should be approved, a new defence policy and military doctrine enacted, and progress made in establishing a civilian intelligence system under democratic control. Decisive efforts are needed to strengthen the National Civilian Police and its Academy, and to ensure that the civilian police have the training, manpower, resources and national coverage necessary to provide adequate security to all Guatemalans.

78. The peace process cannot prosper if it is starved of funds or if the priorities of the peace agreements are not reflected in the national budget. Efforts to increase the tax base, within a framework of transparency, should be supported by the private sector and society in general. Allocations of State resources should give priority to the peace agreements, taking into account growing demands for social services and present economic growth rates.

79. Progress in rural development is central for overcoming the structural causes of the armed conflict. All sectors should participate in discussions aimed at developing long-term State policies that are responsive to the nation's diversity. The Government should also commit human and material resources to the fulfilment of legal commitments in respect of land and rural development, mainly through the formulation of a law on agrarian and environmental jurisdiction and the reforms to establish compensation mechanisms in matters of land disputes.

80. Guatemala's electoral process has been marred by a number of unfortunate incidents, some of which have led to violence. Some followed acts of provocation, suggesting that some participants have not fully committed themselves to the fundamentals of democratic elections — tolerance, pluralism and non-violence. It is only in a climate of peace, devoid of threats and intimidation, that Guatemalan voters can exercise their right to freely choose their leaders and hold them accountable for their performance.

81. In conclusion, allow me to express my appreciation to the parties, in particular to the Government of Guatemala for its continued cooperation with the Mission. Should the General Assembly approve the Government's request for an extension of

the MINUGUA mandate in 2004, this would give the Mission additional time to carry out its transition strategy, while also providing an opportunity to accompany a new Administration in the implementation of the peace accords during its crucial first year in office.

82. The international community should continue to focus its cooperation in the framework of the peace accords, while national efforts are being strengthened at the same time to sustain the process. Even as MINUGUA phases out its operations in Guatemala, the United Nations will remain engaged, steadfast in the conviction that the peace accords are the best and only workable path for lasting peace and development in the country.